

**ONE HUNDREDTH LEGISLATURE - SECOND SESSION -  
2008**

**COMMITTEE STATEMENT**

**LB995**

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**Hearing Date:** January 28, 2008

**Committee On:** General Affairs

**Introducer(s):** (General Affairs Committee)

**Title:** Change provisions relating to cemeteries

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**Roll Call Vote - Final Committee Action:**

Placed on General File with Amendments

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**Vote Results:**

8 Yes	Senators Dierks, Dubas, Erdman, Friend, Janssen, Karpisek, McDonald, Preister
0 No	
0 Absent	
0 Present, not voting	

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**Proponents:**

Laurie Lage  
Michael J. Smith  
Cynthia Monroe  
Gary Krumland  
Nancy Ann Hartman  
Irvin Mueller  
Greg Easley

**Representing:**

General Affairs Committee Legal Counsel  
Nebraska State Historical Society  
Self  
League of Nebraska Municipalities  
Granville Cemetery  
Granville Cemetery  
Nebraska Cemetery Association

**Opponents:**

**Representing:**

**Neutral:**

Jon Edwards  
Jim Cunningham

**Representing:**

NACO  
Nebraska Catholic Conference

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## Summary of purpose and/or change:

LB 995 changes duties of local government, makes clarifications, and updates language in the cemetery statutes to reflect the current situations of small, abandoned, neglected or pioneer cemeteries.

### Details

Chapter 12, Article 8, contains the statutes relating to the maintenance and improvement of cemeteries, and are the sections containing the bulk of this bill's changes.

Sections 12-801 to 12-804 involve general maintenance duties of cemetery trustees; Sections 12-805 to 12-806.01 cover county board duties to abandoned or neglected cemeteries; and Sections 12-807 to 12-810 involve abandoned or neglected *pioneer* cemeteries.

Sections 3 through 6, and Sections 8 through 10 of the bill, provide for the same change to §§12-805, 12-806, 12-807, 12-808, 12-1202, 12-1204 and 12-1401. When referring to “abandoned and neglected cemeteries,” the word and is replaced with or. The original statute has been interpreted as meaning that a cemetery has to be both abandoned AND neglected before a county has to provide resources for maintenance. Under current statute, a cemetery has to be abandoned and neglected for 20 years before a county will act. Some county boards have determined that even though a cemetery has been abandoned and neglected for 20 years, a one-time, basic clean-up means that it is no longer neglected. Since the cemetery has to meet both standards, the 20 year toll begins again.

Also, Sections 3, 8, and 10 of the bill delete reference to the term, “Indian burial ground” because the unmarked human burial sites statutes govern Indian burial grounds now and negated the provisions of these sections.

Other provisions of the bill:

**Section 1** amends §12-401, which provides the cemetery board rules in cities of less than 25,000 population and villages, by revising cemetery board membership.

**Section 2** amends §12-402, relating to tax levy limits for cemetery funds in cities of 25,000 or less, by granting the local governing body the authority to issue warrants from the cemetery fund if the cemetery board is not planning to meet before a bill is due.

**Section 3** amends §12-805 by *requiring*, instead of *allowing*, county boards to use general funds for the care and maintenance of abandoned or neglected cemeteries and sets a cap of \$1,000 per cemetery, per year, that may be expended. Current dollar limits for maintenance are stricken.

**Section 5** amends §12-807 requires county boards to provide continuous maintenance for pioneer cemeteries, and adds that mowing is to be part of that maintenance. When a county board is petitioned by residents to care for a pioneer cemetery, new language requires that notice of the petition be published.

**Section 6** amends §12-808 by replacing the 20 year time period that a cemetery has to be abandoned or neglected to get care with a five year period. It also clarifies that minor or one-time maintenance does not reset the time period.

**Section 7** amends §12-810 by requiring counties that maintain pioneer cemeteries to provide four mowings annually. Also *allows* instead of *requires* counties to place historical markers at pioneer cemetery sites.

**Section 10** amends §12-1401, which created the Statewide Cemetery Registry, by specifically excluding burial grounds that are protected by §84-712.05 which lists records that may be withheld from the public. The applicable subsection is (13), which protects collection records of archaeological, historical or paleontological sites in Nebraska.

**Section 11** repeals the original sections.

**Section 12** repeals outright §12-806.01, eliminating a requirement that each county board post signs or markers on every abandoned or neglected cemetery, or Indian burial ground.

### **Explanation of amendments, if any:**

AM 2118: clarifies that it is the county board that is to publish the notice of a cemetery maintenance petition under §12-807; deletes the provision in section 6 which states that minor or one-time maintenance shall not toll the 20 year time period; removes in §12-810 the requirement of four annual mowings, takes the requirement back to one annual mowing, but provides for additional mowings at the discretion of the county board and subjects requests for additional mowings to a public hearing, and; contains a revision requested by the Nebraska State Historical Society related to the Statewide Cemetery Registry in section 10 because they discovered the protection they sought was already available under another statute.

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Senator Vickie McDonald, Chairperson